

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
MICHAEL MINEO,

Plaintiff,

- against -

CITY OF NEW YORK, et al.,

Defendants.
-----X

ROSLYNN R. MAUSKOPF, United States District Judge.

Rw

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ FEB 13 2018 ★

BROOKLYN OFFICE

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

09-CV-2261 (RRM) (ST)

On May 28, 2009, plaintiff Michael Mineo commenced this action against the City of New York, the New York City Police Department, and numerous individual police officers based on violations of 42 U.S.C. §§ 1983, 1985, and 1988, among other claims, stemming from allegations of forcible sexual abuse. On May 5, 2017, counsel for Mineo advised the Court that he would seek to withdraw as counsel based on recent developments with Mineo. (5/5/2017 Letter Mot. (Doc. No. 341).) The Court then ordered Mineo to appear in person for a hearing on May 15, 2017, on this motion to withdraw. (5/5/2017 Order.) On May 11, 2017, Mineo's counsel further advised the Court that his client had become very reclusive, requiring counsel to communicate with Mineo through an intermediary, Sydney Mitchel, and that Mineo had no interest in proceeding with this case or appearing in court again. (Mot. to Withdraw as Counsel (Doc. No. 342) at 1.) Mineo then failed to appear at the scheduled hearing on May 15, 2017, but had advised his counsel, through his intermediary, that he did not intend to move forward with this case. (5/15/2017 Min. Order; 6/21/2017 Report and Recommendation ("R&R").) The Court deferred ruling on the motion to withdraw as counsel and ordered Mineo to appear at another hearing on June 21, 2017, cautioning Mineo that failure to appear again would result in a recommendation that this action be dismissed for failure to prosecute. (5/15/17 Min. Order.) On

June 21, 2017, Mineo again failed to appear or contact the Court. (6/21/2017 Min. Order.)

Mineo again advised counsel through his intermediary that he did not intend to participate in this case any longer. (R&R.)

Accordingly, the Honorable Magistrate Judge Steven Tiscione issued a Report and Recommendation, a copy of which was mailed to Mineo on June 21, 2017, recommending that Mineo's action be dismissed pursuant to Federal Rule of Civil Procedure ("Rule") 41(b). (R&R; Aff. of Service (Doc. No. 347).) Judge Tiscione reminded the parties that, pursuant to Rule 72(b), any objections to the R&R must be filed within 14 days of service of the R&R. (R&R.) The deadline to file objections has long since passed, and neither party has filed any objection.

Pursuant to 28 U.S.C. § 636(b) and Rule 72, this Court has reviewed the R&R for clear error and, finding none, concurs with the R&R in its entirety. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007).

Accordingly, it is hereby ordered that Mineo's action be dismissed pursuant to Rule 41(b).

The Clerk of Court is respectfully directed to enter judgment; mail a copy of this Memorandum and Order and the accompanying judgment to plaintiff Michael Mineo, both at the address listed on the docket and via email to Sydney Mitchel, Mineo's self-designated intermediary, at mannyvega2005@yahoo.com; note the mailings on the docket; and close this case.

SO ORDERED.

Dated: Brooklyn, New York
February 9, 2018

Roslynn R. Mauskopf

ROSLYNN R. MAUSKOPF
United States District Judge